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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,858

10/31/2003

Howard W. Lutnick

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05/06/2009

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EXAMINER

SHUMATE, PAUL W

ART UNIT

PAPER NUMBER

3693

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DELIVERY MODE

05/06/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/699,858	<b>Applicant(s)</b> LUTNICK ET AL.	
	<b>Examiner</b> PAUL SHUMATE	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 23-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the communication filed on 1/15/2009.
2. Non-elected claims 23-29 have been withdrawn from consideration.
3. Claims 1, 12, and 18 have been amended by Applicant.
4. Claims 1-22 have been examined and currently stand rejected.

### ***Election/Restrictions***

5. Applicant's election with traverse of Group 1, corresponding to claims 1-22, in the reply filed on 1/15/2009 is acknowledged. The traversal is on the ground(s) that because the examiner already examined the claims together and issued a previous Office Action which applied prior art to the independent claims in parallel, Applicant does not believe that substantive examination of all the claims is a search burden or an examination burden. This is not found persuasive because after reviewing the current claims the examiner realized that while the prior art applied in the first Office Action was appropriately applicable to the trading systems of Group 1, it did not apply as appropriately to the configurable keyboard hardware of Group 2. The examiner believes a full search focused specifically on the subject matter of Group 2 in at least class 345, subclass 168 is necessary for a full, thorough, and proper examination of claims 23-29. Restriction for examination purposes as indicated is proper because there would in fact be a serious search and examination burden to separately search and examine the two distinct inventions which have separate status in the art due to their recognized divergent subject matter, their entirely different classifications which will require significantly different fields of search, and the prior art most applicable to one invention would not likely be appropriately applicable as the best prior art to the other invention. The requirement is still deemed proper and is therefore made FINAL.

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**Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim(s) 1-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Belzberg, U.S. Patent No.: 6,134,535, in view of Gutterman et al, U.S. Patent No.: 5,297,031.

Examiner's Note: The Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

8. As per claims 1-22, Belzberg teaches a system for electronic trading (see at least column 2 lines 14-18) which comprises a keyboard having keys for placing orders (see at least column 2 lines 14-18, column 3 lines 1-5, and column 3 lines 65-67), a display device which displays information regarding relevant stocks (see at least column 2 lines 18-22, column 2 lines 67-67, and column 3 lines 49-57), and a processor for controlling the information being displayed (see at least column 5 lines 33-45).

9. Belzberg does not specifically teach displaying multiple financial instruments in different trading quadrants, where each quadrant contains information relating to each specific financial instrument, and Belzberg also does not teach displaying one of the quadrants on the display in response to a user selecting that quadrant.

10. Gutterman teaches that the deck pane can be partitionable so that a plurality of decks can be simultaneously displayed (see at least column 13 lines 5-7). Each of the four displayed deck areas correspond to different commodity or instruments to be traded (see at least column 13 lines 7-10). Touch sensitive buttons are linked to the four screens and when pressed, selectively call up their respective deck area onto the full deck pane. The on screen keyboard has a plurality of buttons that may be

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dedicated to predetermined functions or can also provide conventional keyboard capability (see at least column 13 lines 17-26). Additionally, there are PARTIAL and TOTAL FILLED buttons which are linked to the financial instruments in specific deck frames that when pushed execute large orders at the touch of a button (see at least column 13 lines 47-58).

11. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the teachings of Belzberg and Gutterman because viewing more than one financial instrument on the screen at a given time allows traders to keep track of more trades at once but since the amount of information that can be displayed for each instrument is reduced due to shared screen display space, allowing the trader to choose one frame to view full screen allows a user to review more data about a specific trade at one time (see at least column 11 lines 1-8 and column 13 lines 5-19).

12. Belzberg further teaches that the computerized trading system processes orders and initiates trade transactions (see at least column 2 lines 14-39, column 3 line 63 to column 4 line 6, and column 5 lines 9-25) which displays information relevant to transactions in real time (see at least column 7 lines 65-67)

13. Gutterman further teaches a clearinghouse (see at least column 6 lines 60-62 and column 13 lines 37-40) as part of the system.

14. All claim limitations have been considered in judging the patentability of the claims against the prior art. In order to distinguish the invention from the prior art in terms of patentability, Examiner asserts that the recitation of the *intended use* or *purpose* of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use or fulfilling said purpose, then it meets the claim.

15. Claim limitations that contain statements such as “wherein, whereby” that fail to further define the discrete physical structure required of system claims will not differentiate the claimed system from prior art systems that have an equivalent structure and are therefore capable of performing the same tasks.

**Response to Arguments**

16. Applicant's arguments filed 8/25/2008 have been fully considered but they are not persuasive. Applicant argues that Belzberg and Gutterman both fail to teach "*displaying one of the plurality of trading quadrants*" in response to "*pressing one of the plurality of order keys*" or "*selecting the at least one trading quadrant*" in response to "*pressing the key that corresponds to the instrument.*" The examiner respectfully disagrees.

17. As an initial matter, the examiner reminds Applicant that patentable subject matter in a system claim is based on required structure. Method steps performed in a system claim may not distinctly provide clear structural requirements for the claimed system. When language in a system claim states only the intended use or intended result (e.g., "for placing orders...", "for displaying a view region..."), but the expression does not result in a clear structural difference between the system claim and the prior art, in other words, if the prior art structure is capable of performing the intended use, then the prior art meets the claim. Claim limitations that contain statements such as "wherein, whereby" that fail to further define the discrete physical structure required of system claims will not differentiate the claimed system from prior art systems that have an equivalent structure and are therefore capable of performing the same tasks.

18. Further, Gutterman teaches that the deck pane can be partitionable so that a plurality of decks can be simultaneously displayed (see at least column 13 lines 5-7). Each of the four displayed deck areas correspond to different commodity or instruments to be traded (see at least column 13 lines 7-10). Touch sensitive buttons are linked to the four screens and when pressed, selectively call up their respective deck area onto the *full* deck pane. The on screen keyboard has a plurality of buttons that may be dedicated to predetermined functions or can also provide conventional keyboard capability (see at least column 13 lines 17-26). Additionally, there are PARTIAL and TOTAL FILLED buttons which are linked to the financial instruments in specific deck frames that when pushed execute large orders at the touch of a button (see at least column 13 lines 47-58).

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19. Regarding arguments such as “claim 1 describes a processor that is configured to direct the display device to display one of the plurality of trading quadrants in response to the participant pressing one of the plurality of order keys,” the examiner asserts that this is not actually found in the recited claims. In fact, as currently claimed, the processor seems to just be a processor capable of running software. The processor executes the computer program and the computer program then directs the processor to direct the display device etc.

20. The remaining arguments are drawn towards non-elected claims and are therefore moot.

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

22. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL SHUMATE whose telephone number is (571)270-1830. The examiner can normally be reached on M-F 9:00 AM - 5:00 PM, EST alt Fridays off.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Name: Paul W. Shumate  
Title: Patent Examiner  
Date: 4/13/2009  
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Examiner, Art Unit 3693

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693